

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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JUL 19 1996

In the Matter of )  
Annual Assessment of the Status of )  
Competition in the Market for the )  
Delivery of Video Programming )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY  
CS Docket No. 96-133

COMMENTS

BellSouth Corporation and BellSouth Telecommunications, Inc.,  
("BellSouth") submit these comments in response to the Commission's Notice Of  
Inquiry (FCC 96-265), released June 13, 1996.

The Telecommunications Act of 1996<sup>1</sup> has significantly increased the  
potential for competition in the delivery of video programming services. It  
removed, or confirmed judicial removal of, legal barriers to telephone company  
provision of cable services and affirmed that telephone companies are entitled to  
integrate the provision of cable services and telephone services. Congress has  
chosen competition over regulation to increase consumer welfare in markets for  
cable services. Congress clearly expects telephone companies to be major  
competitors in those markets. The 1996 Act manifests a specific congressional  
intent to "hasten the development of video competition" and "provide consumers

<sup>1</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56,  
enacted February 8, 1996 ("1996 Act").

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with increased program choice” through eliminating obstacles to competitive entry by telephone companies.<sup>2</sup>

BellSouth’s experience in its interactive cable services trial in Chamblee, Georgia, though limited, confirms the wisdom of Congress’ choice of competition to increase consumer welfare. BellSouth Interactive Media Services, Inc., was awarded a cable franchise by the City of Chamblee on April 16, 1996, and began marketing its service on April 26. The incumbent cable operator responded immediately, not only with intense marketing efforts, but also with substantial improvements in its offer to its subscribers.

Specifically, the incumbent immediately began to publicize heavily that its network in Chamblee would soon be upgraded to provide an additional 30 channels and guaranteed that the new channels would be offered at no additional charge.<sup>3</sup> The incumbent also promised reduced rates to subscribers in BellSouth’s service area (the month of June at no charge and the month of July at half price).<sup>4</sup> The incumbent added The History Channel, The Disney Channel, Turner Classic Movies, and ESPN2 to its enhanced basic service within two weeks of BellSouth’s entry into the market. It also offered a \$3.00 per

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<sup>2</sup> Telecommunications Act of 1996 Conference Report, H. R. Rep. 104-458 at 172-173 (Jan. 31, 1996).

<sup>3</sup> See Exhibit A (a letter dated April 26, 1996, to customers in Chamblee). The incumbent delivered this letter to subscribers in BellSouth’s service area soon after receiving disconnect requests from subscribers switching to BellSouth’s service. See also Exhibit B (a door hanger placed on April 29 by an employee of the incumbent who followed BellSouth’s sales representative) and Exhibit C (direct mail material sent to Chamblee homes in May).

<sup>4</sup> See Exhibit A.

month discount to subscribers who signed a twelve-month service commitment.<sup>5</sup>

The incumbent's intense marketing efforts have been focused on the parts of Chamblee where BellSouth has begun to offer service. Such intense efforts have not be evident outside of the City of Chamblee, where BellSouth is still awaiting a cable franchise and has not begun to offer service.

BellSouth's experience in the first months of its Chamblee trial is instructive. It confirms that competitive entry has a dramatic and immediate impact on the behavior of incumbent cable operators and that competition is good for consumers. Competition produces immediate and substantial consumer welfare gains. On the other hand, BellSouth's experience also confirms that competitive entry into markets dominated by incumbent cable operators will be difficult. Cable operators will respond aggressively to protect their market share. Incumbent cable operators are not strangers to predatory tactics<sup>6</sup> and may be expected to pursue such tactics until the costs of predation outweigh the benefits.

The removal of legal barriers to entry does not ensure that competitive entry into video programming markets will be any more successful in the future than in the past. Telephone companies and other potential entrants face substantial economic and business obstacles to successful entry, including large capital investments, predatory responses by incumbents, local franchising

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<sup>5</sup> See Exhibit D (contract form for the twelve-month commitment).

<sup>6</sup> See Thomas W. Hazlett, Predation in local cable TV markets, 40 Antitrust Bull. 609 (1995).

obstacles or delays, and denial of access to important programming. In the case of telephone companies, the prospect of entry is further dimmed by proposals for punitive cost allocation rules now being considered by the Commission in CC Docket No. 96-112. Adoption of proposals to reallocate substantial investment in existing plant, which is being used to meet current or projected demand for telephone services, and to reduce telephone rates by an exogenous price cap adjustment would significantly impair the business case for investment in broadband facilities and competitive entry into video programming. No such penalty will be imposed on cable operators that use their cable facilities to enter the telephone business. Such uneven regulation of competitors will retard the development of competition and deprive consumers of the benefits of fully competitive markets.

Access to programming continues to loom as a major hindrance to successful competitive entry. Current program access rules provide important protection, but it is limited in scope. Those rules do not protect, for instance, against exclusive agreements between large MSOs and non-affiliated programmers. The anticompetitive potential for such behavior has become apparent in recently announced exclusive agreements for MSNBC.<sup>7</sup> The Commission should not underestimate the power of large MSOs, which dominate markets consisting of tens of millions of households, to extract exclusive

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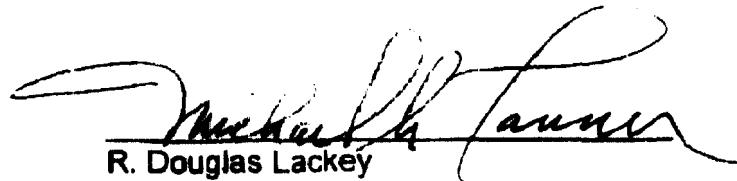
<sup>7</sup> See News Battles Rage On: Fox Nabs TCI; MSNBC Touts Retrans for NBC Affiliates, Multichannel News, July 1, 1996 at 1.

agreements from important new programmers such as MSNBC, which must rapidly achieve high levels of market penetration to survive.

In conclusion, although video programming markets are churning with competitive activity and the prospects for video competition are brighter than ever, substantial obstacles to thoroughly competitive video programming markets remain. The Commission must continue to look for ways, through administrative action or legislative proposals, to eliminate remaining legal and regulatory impediments to rigorously competitive video programming markets and to deprive incumbent cable operators of the ability to engage in predatory behavior.

Respectfully submitted,

BELLSOUTH CORPORATION and  
BELLSOUTH TELECOMMUNICATIONS, INC.  
By Their Attorneys:

A handwritten signature in black ink, appearing to read "Michael A. Tanner", is written over a horizontal line.

R. Douglas Lackey  
Michael A. Tanner

Suite 4300  
675 West Peachtree St., N.E.  
Atlanta, GA 30375  
(404) 335-0764

July 19, 1996



# SCRIPPS HOWARD CABLE TV COMPANY



April 26, 1996

Dear Customer,

If you've been extremely happy with your cable service, here's some good news. If you've been dissatisfied with your service, here's even *better* news!

My name is Geof Rochester, Senior Vice President of Sales and Marketing for Comcast Cable, the third largest cable company in the United States. We are in the process of purchasing Scripps Howard Cable, the company that serves your community.

There has never been a better time to subscribe to cable television. Work has begun to rebuild your entire community with *fiber optic cable*. To you, this state-of-the-art, fiber optics system will mean a greater number of channels from which to choose, even fewer service interruptions, and dazzling picture quality.

Effective June 1st, the rebuild of Chamblee will be complete. I personally guarantee you will see the difference. Here are a few more things I guarantee:

1. **30 more channels at no extra cost**, including those you've requested most like ESPN2, The History Channel and Turner Classic Movies (look for these three new networks as early as May 1, 1996).
2. **Fewer service interruptions** thanks to the simplicity and power of fiber optics, one of the world's most sophisticated communications technologies.
3. **Reduced rates for the next two months!** As with any construction project there may be a few outages during late night or early morning viewing. As a sign of our appreciation for your patience your cable rates will be cut in HALF during the rebuild. And so you can sample the new, improved system, your service will be completely FREE the first month!
4. **30-Day Money Back Satisfaction Guarantee.** Your satisfaction is guaranteed! You will be satisfied with our service and system or you will receive a refund for the previous 30 days service charge -- no questions asked!

Comcast has earned the trust and respect of its over 3 million customers from California to Connecticut, and we are setting out to earn yours. And as our roots are based in the South (having been founded 30 years ago in Tupelo, Mississippi), we know earning your respect will be based on our performance, not our promises, trials or test-runs.

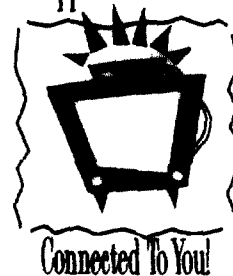
If you have any questions about your new service, or would like to become a subscriber, please call (770) 451-7635 in Chamblee. Thank you for your time and consideration.

Sincerely,

Geof Rochester  
Senior Vice President, Sales and Marketing  
Comcast Cable Communications, Inc.

- 2 Prevue Guide
- 3 WSB (ABC Ch.2 Atlanta)
- 4 WAGA (FOX Ch.5 Atlanta)
- 5 WVEU (Ch.69 Atlanta)
- 6 WGN (Chicago Superstation)
- 7 WXIA (NBC Ch.11 Atlanta)
- 8 WPBA (PBS Ch.30 Atlanta)
- 9 WATL (Ch.36 Atlanta)
- 10 WGNX (CBS Ch.46 Atlanta)
- 11 WGTV (PBS Ch.8 Atlanta)
- 12 WTBS (Ch.17 Atlanta)
- 13 WWOR (New York Superstation)
- (99) 14 Atlanta Interfaith Broadcasters
- 15 The Weather Channel
- 16 C-Span
- 17 QVC
- 18 WTLK (Ch.14 Rome)
- 19 WHSB (Ch.63 Monroe)
- 20 Public Access
- 21 Government Access
- 22 Educational Access
- 23 Discovery Channel
- 24 History Channel
- 25 Arts and Entertainment
- 26 Consumer News/Business Channel (CNBC)
- 27 Cable News Network (CNN)
- 28 Headline News
- 29 Lifetime
- 30 Black Entertainment Television (BET)
- 31 The Learning Channel
- 32 Univision
- 33 Turner Classic Movies (TCM)
- 34 Nickelodeon
- 35 ESPN-2
- 36 ESPN - Total Sports Network
- (14) 37 Sports South/Home Shopping Network
- (37) 38 USA Network
- (38) 39 Video Hits (VH-1)
- (39) 40 Music Television (MTV)
- (40) 41 The Family Channel
- (41) 42 The Nashville Network (TNN)
- (42) 43 Country Music Television (CMTV)
- (43) 44 Comedy Central
- (44) 45 Turner Network Television (TNT)
- (45) 46 American Movie Classics (AMC)
- 47 Showtime
- 48 The Disney Channel
- 49 The Playboy Channel
- 50 Home Box Office
- 51 The Movie Channel
- 52 Cinemax
- 53 Request (PPV)
- 54 Viewer's Choice (PPV)

Scripps Howard Cable



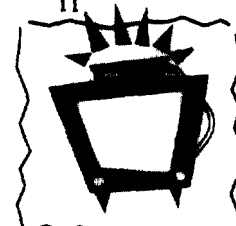
**We're installing the new  
state-of-the-art  
fiber optic system!**

**We're also adding  
3 New Channels!**





Scripps Howard Cable



Connected To You!



## Dear Customer,

Over the next several days, Scripps Howard Cable and Comcast Cable will have construction crews working in your immediate area. These crews will be installing a new state-of-the-art fiber optic network. When complete, you will enjoy improved reliability, 30 more channels, and an opportunity to sample our new network for free!

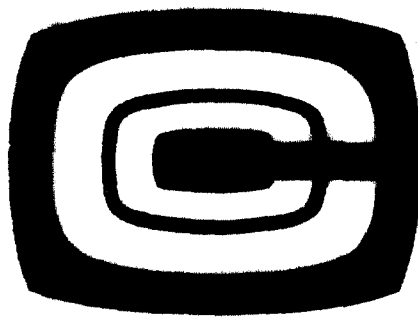
You may experience brief service interruptions during this period. We apologize for any inconvenience our construction activity may cause, and promise to work to minimize the distractions.

Thank you for your cooperation, your understanding, and your business.

## You still don't have cable?

If you are not a customer yet, please call **(770) 451-7635** for a free priority install! We will wire your home quickly and completely, and offer you these exciting new channels with 30 new cable networks coming once the new system is complete!





**COMCAST®**

**BRINGING THE**

• COMEDY • DRAMA • DANCE • OPERA • THEATER • EDUCATION •

**WORLD OF GREAT**

• TRAVEL • MYSTERY • NEWS • SPORTS • GOVERNMENT • MOVIES •

**TELEVISION TO OUR**

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**COMMUNITY**

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## Introducing Our New 87 CHANNEL LINEUP

Our new fiber optic system gives you more ways to be satisfied. Like 34 new channels, just for you. That's 87 channels in all. It's the best way to see it all including:



From collecting heirlooms to training pets, fx explores what real people do in real life. Featuring live telecasts and viewer involvement! Only on Comcast and Scripps Howard.



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THE GOLF CHANNEL

The Golf Channel. Join the club with tournaments and tips for the professional and amateur duffer.



It's Saturday morning any time you want with classic and original cartoons for kids of all ages.



Bravo. This film and art network gives you award-winning films, performances, concerts and artist features — all without commercial interruptions.

To Order Any New Premium Service  
Call 451-7635 Today.



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CABLE TV COMPANY



### Basic Service

- 2 Prevue
- 3 VSB (ABC Ch. 2 Atlanta)
- 4 VAGA (Fox Ch. 5 Atlanta)
- 5 VUPA (Ch. 69 Atlanta)
- 6 VGN (Chicago Superstation)
- 7 WJIA (NBC Ch. 11 Atlanta)
- 8 WJBA (PBS Ch. 30 Atlanta)
- 9 WATL (Ch. 36 Atlanta)
- 10 WGNX (CBS Ch. 46 Atlanta)
- 11 WGTB (PBS Ch. 8 Atlanta)
- 12 WTBS (Ch. 17 Atlanta)
- 13 WTVR  
New York Superstation
- (99) 14 Atlanta Interfaith Broadcasters
- 15 The Weather Channel
- 16 C-SPAN
- 17 QVC
- 18 WTLK (Ch. 14 Rome)
- 19 WHSG (Ch. 63 Monroe)
- 20 Public Access
- 21 Government Access
- 22 Educational Access

### Expanded Basic Service

- 23 Discovery Channel
- 24 History Channel
- 25 Arts and Entertainment (A&E)
- 26 Consumer News/Business  
Channel (CNBC)
- 27 Cable News Network (CNN)
- 28 Headline News
- 29 Lifetime
- 30 Black Entertainment  
Television (BET)
- 31 The Learning Channel
- 32 Univision
- 33 Turner Classic Movies (TCM)
- 34 Nickelodeon
- 35 ESPN-2
- 36 ESPN-Total Sports Network
- (14) 37 Sports South/Home Shopping  
Network
- (37) 38 USA Network
- (38) 39 Video Hits (VH-1)
- (39) 40 Music Television (MTV)
- (40) 41 The Family Channel
- (41) 42 The Nashville Network (TNN)
- (42) 43 Country Music Television  
(CMT)
- (43) 44 Comedy Central
- (44) 45 Turner Network Television  
(TNT)
- (45) 46 American Movie Classics  
(AMC)

### Premium Service

- ★ 47 Showtime
- ★ 48 The Disney Channel
- ★ 49 The Playboy Channel
- ★ 50 Home Box Office (HBO)
- ★ 51 The Movie Channel (TMC)
- ★ 52 Cinemax
- ★ 53 Request (PPV)
- ★ 54 Viewer's Choice (PPV)

### New Channels

- 55 C-SPAN II
- ★ 56 HBO2
- ★ 57 HBO3
- 58 Court TV
- 59 CNN fn
- 60 Speedvision
- 61 The Golf Channel
- 62 Outdoor Life
- 63 QVC II
- 64 Sneak Prevue
- 65 Classified Ads
- 66 Local Organization
- 67 Doppler Radar
- 68 Galavision
- 69 Cartoon Network
- 70 TV Land
- 71 fx
- 72 Sci-Fi
- 73 The Disney Channel
- 74 E!
- 75 TV FOOD
- 76 HGTV
- 77 The Travel Channel
- 78 BRAVO

- ★ 79 Showtime 2
- ★ 80 Cinemax 2
- ★ 81 HBO (Spanish)
- ★ 82 Showtime (Spanish)
- ★ 83 The Independent Film Channel
- ★ 84 STARZ!
- ★ 85 Encore
- ★ 86 Hot Choice (PPV)
- ★ 87 Continuous Hits I (PPV)
- ★ 88 Continuous Hits II (PPV)

★ = Optional Services Requiring  
Additional Charges

# Fiber Optic Cable Is Making News.

**87 Channels Of Fiber Optic Picture Quality.  
Plus New Technology, New Services and More Choices!**

## New Technology

### NEW! The "Power Box."

Sleek and efficient. The new "Power Box" gives you instant access to all 87 channels, including all new premium services like multi-channel HBO (1,2,3), Showtime (1,2) and Cinemax (1,2). Choose to watch what you want, when you want it. For those who want cable's most advanced services.

### NEW! Universal Remote.

Now available, the new Universal Remote Control operates your VCR, TV and the new "Power Box." All of the incredible choices are available at your fingertips. The ultimate in convenience is in the palm of your hands.

### NEW! Pay-Per-View Channels.

Introducing a wide new selection of Pay-Per-View movies and events on 3 new channels. Now you have a choice of 6 Pay-Per-View channels in all, including Viewers Choice, Hot Choice, and Continuous Hits I and II.



## New & Improved Service Benefits

### NEW! Total Satisfaction Guarantees.

We are dedicated to great customer service with a new Customer Service Center and new Customer Care Representatives, guaranteeing:

- 24-hour access to Service Representatives
- Person-To-Person Service when you need it
- Your own Personal Account Representative
- "On-Time" Service Guarantee

### NEW! Wire Care Plus.

Our new Wire Care Plus service can save you over \$35 a year! Provides full maintenance not only for your cable line but for the telephone wiring and related wiring in your home as well. Monthly charges on your local telephone bill for this service can cost up to \$2.95. Current Wire Care customers receive this service at no additional charge.



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CABLE TV COMPANY**

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BROADCAST

RODNEY GARRICK  
Personal Account Representative  
(404) 570-2308

SERVICE  
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SALES  
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WORLD OF GREAT  
TELEVISION TO OUR  
COMMUNITY

## The Comcast Cable Viewers Club

As a Comcast customer you deserve the best service and the best value. We are committed to providing both, as well as the extras that you probably don't expect. Extras like Disney on Basic. Comcast Cable customers can enjoy the Disney Channel for no extra charges or fees beyond the Expanded Basic Cable rate. AND, extras like access to the best new cable networks and services in town. We're adding over 30 new channels. Cable channels like Speedvision, Sci-Fi, Cartoon, TV Land, plus many more!

We'll even go several steps further. In exchange for your twelve month commitment to us, we promise to provide you with:

1. **The Best Price Guarantee.** We guarantee to meet or beat any offer from a wired cable provider for similar services.
2. **Locked-in Rate.** We commit to you that your rate will not change over the twelve month period.
3. **Free Installation of Additional Outlets:** We will wire your additional cable outlets at no charge. There are also no monthly fees for additional outlets.
4. **Plus, Popcorn Money!** As a special bonus for our Club Members, enjoy \$3.00 off your monthly bill for the next twelve months. Have a little popcorn on us while you watch the best in cable entertainment...Comcast Cable.

☒ **Yes! I want to be a member of Comcast's Cable Viewers Club.** By signing this agreement, I become a club member and receive all of the above mentioned member benefits. I understand that the fee to become a member is waived during this special promotion.

CUSTOMER ACCOUNT NUMBER

PHONE NUMBER

CUSTOMER NAME

CUSTOMER SIGNATURE

DATE

PERSONAL ACCOUNT REPRESENTATIVE

DATE



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CABLE TV COMPANY**



**COMCAST 451-7635**

Price Guarantee applies to verified on-air rates only. Not applicable to pay-per-view or other services. Not available in all areas. Should Comcast or Scripps Howard fail to meet or beat the rates, we will then the customer may choose to end this agreement. Agreement automatically terminates if customer moves out of the current service area. Not available in all areas.